

part shall be moved by any person from the place at which it is located when so detained, until released by an authorized representative of the Secretary: *Provided*, That any such article or livestock may be moved from the place at which it is located when so detained, for refrigeration, freezing, or storage purposes if such movement has been approved by an authorized representative of the Secretary: *And provided further*, That the article or livestock so moved will be detained by an authorized representative of the Secretary after such movement until such time as the detention is terminated.

(b) Upon terminating the detention of such article or livestock, an authorized representative of the Secretary shall:

(1) Orally notify the immediate custodian of the released article or livestock, and

(2) Furnish copies of a completed "Notice of Termination of Detention" (FSIS Form 8400-1) to the persons notified when the article or livestock was detained. The notice shall be served by either delivering the notice to such persons or by certifying and mailing the notice to such persons at their last known residences or principal offices or places of business.

(c) All official marks may be required by such representative to be removed from such article or livestock before it is released unless it appears to the satisfaction of the representative that the article or livestock is eligible to retain such marks.

[35 FR 15617, Oct. 3, 1970, as amended at 36 FR 12004, June 24, 1971; 39 FR 36000, Oct. 7, 1974; 55 FR 47842, Nov. 16, 1990]

§ 329.6 Articles or livestock subject to judicial seizure and condemnation.

Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased livestock, that is being transported in commerce or is otherwise subject to Title I or II of the Act, or is held for sale in the United States after such transportation, is subject to seizure and condemnation, in a judicial proceeding pursuant to section 403 of the Act if such article or livestock:

(a) Is or has been prepared, sold, transported, or otherwise distributed

or offered or received for distribution in violation of the Act, or

(b) Is capable of use as human food and is adulterated or misbranded, or

(c) In any other way is in violation of the Act.

§ 329.7 Procedure for seizure, condemnation, and disposition.

Any article or livestock subject to seizure and condemnation under this part shall be liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any United States district court, or other proper court specified in section 404 of the Act, within the jurisdiction of which the article or livestock is found.

§ 329.8 Authority for condemnation or seizure under other provisions of law.

The provisions of this part relating to seizure, condemnation and disposition of articles or livestock do not derogate from authority for condemnation or seizure conferred by other provisions of the Act, or other laws.

§ 329.9 Criminal offenses.

The Act contains criminal provisions with respect to numerous offenses specified in the Act, including but not limited to bribery of Program employees, receipt of gifts by Program employees, and forcible assaults on, or other interference with, Program employees while engaged in, or on account of, the performance of their official duties under the Act.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Sec.

331.1 Definition of "State."

331.2 Designation of States under paragraph 301(c) of the Act.

331.3 States designated under paragraph 301(c) of the Act; application of regulations.

§ 331.1

331.4 Control and disposal of non-federally-inspected products in States designated under paragraph 301(c) of the Act.

331.5 Criteria and procedure for designating establishments with operations which would clearly endanger the public health; disposition of products; application of regulations.

331.6 Designation of States under section 205 of the Act; application of sections of the Act and the regulations.

AUTHORITY: 21 U.S.C. 601-695; 7 CFR 2.17, 2.53.

SOURCE: 35 FR 19667, Dec. 29, 1970, unless otherwise noted.

§ 331.1 Definition of "State".

For purposes of this part, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized Territory.

§ 331.2 Designation of States under paragraph 301(c) of the Act.

Each of the following States has been designated, under paragraph 301(c) of the Act, as a State in which the provisions of Titles I and IV of the Act shall apply to operations and transactions wholly within such State. The Federal provisions apply, effective on the dates shown below:

| State | Effective date of application of Federal provisions |
|---------------------------------|---|
| Alaska | July 31, 1999. |
| Arkansas | June 1, 1981. |
| California | Apr. 1, 1976. |
| Colorado | July 1, 1975. |
| Connecticut | Oct. 1, 1975. |
| Florida | Dec. 2, 1997. |
| Guam | Jan. 21, 1972. |
| Hawaii | Nov. 1, 1995. |
| Idaho | July 1, 1981. |
| Kentucky | Jan. 14, 1972. |
| Maryland | Mar. 31, 1991. |
| Massachusetts | Jan. 12, 1976. |
| Michigan | Oct. 3, 1981. |
| Nebraska | Oct. 1, 1971. |
| Nevada | July 1, 1973. |
| New Hampshire | Aug. 6, 1978. |
| New Jersey | July 1, 1975. |
| New Mexico | Aug. 13, 2007. |
| New York | July 16, 1975. |
| Northern Mariana Islands | Oct. 29, 1979. |
| Oregon | July 1, 1972. |
| Pennsylvania | July 17, 1972. |
| Puerto Rico | June 18, 1971. |
| Rhode Island | Oct. 1, 1981. |
| Tennessee | Oct. 1, 1975. |
| Virgin Islands of the U.S. | Nov. 27, 1971. |
| Washington | June 1, 1973. |

[35 FR 19667, Dec. 29, 1970]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 331.2, see the List of CFR

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Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 331.3 States designated under paragraph 301(c) of the Act; application of regulations.

The provisions of the regulations in this subchapter apply to operations and transactions wholly within each State designated in § 331.2 under paragraph 301(c) of the Act, except as otherwise provided in this section. (The provisions of the regulations apply in all respects to operations and transactions in or for commerce.)

(a) Each establishment located in such a designated State shall be granted inspection required under § 302.1(a)(2) of this subchapter only if it is found, upon a combined evaluation of its premises, facilities, and operating procedures, to be capable of producing products that are not adulterated or misbranded.

(b) Section 305.2 of this subchapter will apply to establishments required to have inspection under § 302.1(a)(2) of this subchapter, except that existing interconnections between official and unofficial establishments will be permitted if it is determined in specific cases that the interconnections are such that transfer of inedible product into the official establishment would be difficult or unusual, and any such transfers are strictly prohibited, except as permitted under other provisions of this subchapter. It is essential that separation of facilities be maintained to the extent necessary to assure that inedible product does not enter the official establishment contrary to the regulations in this subchapter.

(c) Sections 416.2(c), (d), (e), (f), and (h) of this chapter shall apply to such establishments.

(d) Section 314.2 of this subchapter shall apply to such establishments, except that a separate room or compartment need not be provided for inedible products if they can be handled so that they do not create insanitary conditions in any room or compartment used for edible products or otherwise render any edible products adulterated and do not interfere with the conduct of inspection. For example, intestines, paunch contents, feet, and hides might be accumulated on the kill floor in

clean, watertight drums with close fitting covers if there is sufficient space to store them out of the way until the close of the day's operation.

(e) Sections 316.7, 317.3, and 412.1 of this chapter apply to such establishments, except as provided in this paragraph (e).

(1) The operator of each such establishment will, prior to the inauguration of inspection, identify all labeling and marking devices in use, or proposed for use, (upon the date of inauguration of inspection) to the Front Line Supervisor of the circuit in which the establishment is located. Temporary approval, pending formal approval under §§316.7, 317.3, and 412.1 of this chapter, will be granted by the Front Line Supervisor for labeling and marking devices that he determines are neither false nor misleading, provided the official inspection legend bearing the official establishment number is applied to the principal display panel of each label, either by a mechanical printing device or a self-destructive pressure sensitive sticker, and provided the label shows the true product name, an accurate ingredient statement, the name and address of the manufacturer, packer, or distributor, and any other features required by section 1(n) of the Act.

(2) The circuit supervisor will forward one copy of each item of labeling and a description of each marking device for which he has granted temporary approval to the Washington, DC, office of the Labeling and Packaging Staff and will retain one copy in a temporary approval file for the establishment.

(3) The operator of the official establishment shall promptly forward a copy of each item of labeling and a description of each marking device for which temporary approval has been granted by the Front Line Supervisor (showing any modifications required by the Front Line Supervisor) to the FSIS Labeling and Program Delivery Staff, accompanied by the formula and details of preparation and packaging for each product. Within 90 days after inauguration of inspection, all labeling material and marking devices temporarily approved by the Front Line Supervisor must receive approval as required by

§§316.7, 317.3, and 412.1 of this chapter, or their use must be discontinued.

(4) The circuit supervisor will also review all shipping containers to insure that they do not have any false or misleading labeling and are otherwise not misbranded. Modifications of unacceptable information on labeling material by the use of self-destructive pressure sensitive tape or by blocking out with an ink stamp will be authorized on a temporary basis to permit the maximum allowable use of all labeling materials on hand. All unacceptable labeling material which is not modified to comply with the requirements of this subchapter must be destroyed or removed from the official establishment.

(f) Sections 320.1, 320.2, 320.3, 320.4, 320.5, 325.20, and 325.21 apply to operations and transactions not in or for commerce in a State designated under paragraph 301(c) only if the State is also designated under section 205 of the Act and if such provisions are applicable as shown in §331.6.

(g) Section 321.1(a) of this subchapter will not apply to States designated under paragraph 301(c) of the Act.

(h) Parts 322 and 327 and §325.3 of this subchapter relating to exports and imports do not apply to operations and transactions solely in or for intrastate commerce.

(i) Part 325 of this subchapter will apply to establishments required to have inspection under §302.1(a)(2) of this subchapter and to operations and transactions solely in or for intrastate commerce, except as provided in paragraphs (h) and (j) of this section.

(j) Sections 325.4, 325.15, and 325.1(b) of this subchapter will not apply to require a certificate, or evidence thereof, for the distribution solely within any designated State of products that are U.S. inspected and passed and so marked.

[35 FR 19667, Dec. 29, 1970, as amended at 36 FR 12004, June 24, 1971; 41 FR 18089, Apr. 30, 1976; 62 FR 45026, Aug. 25, 1997; 64 FR 56416, Oct. 20, 1999; 78 FR 66837, Nov. 7, 2013]

§331.4 Control and disposal of non-federally-inspected products in States designated under paragraph 301(c) of the Act.

Upon the effective date of designation of a State under paragraph 301(c)

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of the Act, no products can be prepared within the State unless they are prepared under inspection pursuant to the regulations in this subchapter or are exempted from the requirement of inspection under §303.1 of this subchapter, and no unexempted products which were prepared without any inspection can lawfully be distributed within the State. For a period of 90 days from the effective date of such designation, products which were prepared and inspected and passed under the supervision of a responsible State or local inspection agency can be distributed solely within the State, provided they are not adulterated or misbranded, except that the official inspection legend is not required. Within the 90-day period, products that have been inspected by the State or local inspection agency may be further prepared and otherwise handled in official establishments required to have inspection under §302.1(a)(2) of this subchapter or at establishments exempted from the requirements of such inspection under §303.1 of this subchapter, and may be distributed as provided in this section but otherwise shall be handled in accordance with §305.4 of this subchapter. Such products shall not bear any [Federal] official inspection legends. After said 90-day period, only federally inspected and passed products may be distributed within the designated State, except as provided in §303.1 of this subchapter.

§331.5 Criteria and procedure for designating establishments with operations which would clearly endanger the public health; disposition of products; application of regulations.

(a) An establishment preparing products solely for distribution within any State shall be designated as one producing adulterated products which would clearly endanger the public health, if:

(1) Any meat or meat food product prepared at the establishment is adulterated in any of the following respects:

(i) It bears or contains a pesticide chemical, food additive, or color additive, that is “unsafe” within the meaning of sections 408, 409, or 706 of the Federal Food, Drug, and Cosmetic Act

or was intentionally subjected to radiation in a manner not permitted under section 409 of said Act; or if it bears or contains any other added poisonous or added deleterious substance which may render it injurious to health or make it unfit for human food; or

(ii) It consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, or unwholesome or otherwise unfit for human food (for example, it was prepared from meat or other ingredients exhibiting spoilage characteristics; or it is, or was prepared from, a carcass affected with a disease transmissible to humans and its condemnation would be required under part 309 or 310 of the Federal Meat Inspection regulations (9 CFR parts 309, 310) at federally inspected establishments; or it is a ready-to-eat pork product which has not been treated to destroy trichinae as prescribed in §318.10 of this subchapter for products at federally inspected establishments); or

(iii) It has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health (for example if insects or vermin are not effectively controlled at the establishments, or insanitary water is used in preparing meat or meat food products for human food); or

(iv) It is, in whole or in part, the product of an animal that died otherwise than by slaughter; or

(v) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; and

(2) Such adulterated articles are intended to be or are distributed from the establishment while capable of use as human food.

(b) When any such establishment is identified by a Program Inspector as one producing adulterated product, which would clearly endanger public health under the criteria in paragraph (a) of this section, the following procedure will be followed:

(1) The Program Inspector will informally advise the operator of the establishment concerning the deficiencies

found by him and report his findings to the appropriate Regional Director for the Program. When it is determined by the Regional Director that any establishment preparing products solely for distribution within any State is producing adulterated products for distribution within such State which would clearly endanger the public health, written notification thereof will be issued to the appropriate State officials, including the Governor of the State and the appropriate Advisory Committee, for effective action under State or local law to prevent such endangering of the public health. Such written notification shall clearly specify the deficiencies deemed to result in the production of adulterated products and shall specify a reasonable time for such action under State or local law.

(2) If effective action is not taken under State or local law within the specified time, written notification shall be issued by the Regional Director to the operator of the establishment, specifying the deficiencies involved and allowing him ten days to present his views or make the necessary corrections, and notifying him that failure to correct such deficiencies may result in designation of the establishment and operator thereof as subject to the provisions of titles I and IV of the Act as though engaged in commerce.

(3) Thereafter the Program Inspector shall survey the establishment and designate it if he determines, in consultation with the Regional Director, that it is producing adulterated products, which would clearly endanger the pub-

lic health, and formal notice of such designation will be issued to the operator of the establishment by the Regional Director.

(c) Products on hand at the time of designation of an establishment under this section are subject to detention, seizure and condemnation in accordance with part 329 of this subchapter: *Provided*, That products that have been federally inspected and so identified and that have not been further prepared at any nonfederally inspected establishment may be released for distribution if the products appear to be not adulterated or misbranded at the time of such release.

(d) No establishment designated under this section can lawfully prepare any products unless it first obtains inspection or qualifies for exemption under § 303.1 of this subchapter. All of the provisions of the regulations shall apply to establishments designated under this section, except that the exceptions provided for in § 331.3 of this part shall apply to such establishments.

§ 331.6 Designation of States under section 205 of the Act; application of sections of the Act and the regulations.

Each of the following States has been designated, effective on the date shown below, under section 205 of the Act, as a State in which the provisions of the sections of the Act and regulations specified below shall apply to operators engaged, other than in or for commerce, in the kinds of business indicated below:

| Sections of act and regulations | Classes of operators | State | Effective date of designation |
|--|---|--|--|
| Act, section 202; §§ 320.1, 320.2, 320.3, and 320.4. | Persons engaged (not in or for commerce) in (1) the business of slaughtering any livestock or preparing, freezing, packaging or labeling any livestock carcasses or parts or products thereof, for use as human food or animal food; (2) the business of buying or selling (as a meat broker, wholesaler, or otherwise), transporting or storing any livestock carcasses or parts or products thereof; or (3) business as a renderer, or in the business of buying, selling, or transporting any dead, dying, disabled, or diseased livestock or parts of carcasses of any livestock that died otherwise than by slaughter. | Alaska Arkansas California Colorado Connecticut Guam Idaho Kentucky Maryland Massachusetts .. Michigan Nebraska Nevada New Hampshire New Jersey New York Northern Mariana Islands. | July 31, 1999. Mar. 29, 1982. Apr. 1, 1976. July 1, 1975. Oct. 1, 1975. Nov. 19, 1976. Mar. 29, 1982. Apr. 18, 1973. Mar. 31, 1991. Jan. 12, 1976. Mar. 29, 1982. Jan. 31, 1975. Jan. 31, 1975. Oct. 29, 1979. July 1, 1975. July 16, 1975. Oct. 29, 1979. |

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| Sections of act and regulations | Classes of operators | State | Effective date of designation |
|---------------------------------|---|---------------------------|-------------------------------|
| Act, 203; § 320.5 | Persons engaged (not in or for commerce) in business as a meat broker; renderer; animal food manufacturer; wholesaler or public warehouseman of livestock carcasses, or parts or products thereof; or buying, selling, or transporting any dead, dying, disabled, or diseased livestock, or parts of carcasses of any such livestock that dies otherwise than by slaughter. | Oregon | Jan. 31, 1975. |
| | | Pennsylvania | May 2, 1974. |
| | | Puerto Rico | Nov. 19, 1976. |
| | | Rhode Island | Mar. 29, 1982. |
| | | Tennessee | Oct. 1, 1975. |
| | | Virgin Islands | Nov. 19, 1976. |
| | | Washington | Jan. 31, 1975. |
| | | Alaska | July 31, 1999. |
| | | Arkansas | Mar. 29, 1982. |
| | | California | Apr. 1, 1976. |
| | | Colorado | July 1, 1975. |
| | | Connecticut | Oct. 1, 1973. |
| | | Guam | Nov. 19, 1976. |
| | | Idaho | Mar. 29, 1982. |
| | | Kentucky | Apr. 18, 1976. |
| | | Maryland | Mar. 31, 1991. |
| | | Massachusetts .. | Jan. 12, 1975. |
| | | Michigan | Mar. 29, 1982. |
| | | Nebraska | Jan. 31, 1975. |
| | | Nevada | Jan. 31, 1975. |
| | | New Hampshire .. | Oct. 29, 1979. |
| | | New Jersey | July 1, 1975. |
| | | New York | July 16, 1973. |
| | | Northern Mariana Islands. | Oct. 29, 1979. |
| | | Oregon | Jan. 31, 1974. |
| | | Pennsylvania | May 2, 1975. |
| | | Puerto Rico | Nov. 19, 1976. |
| | | Rhode Island | Mar. 29, 1982. |
| | | Tennessee | Oct. 1, 1975. |
| | | Virgin Islands | Nov. 19, 1976. |
| | | Washington | Jan. 31, 1975. |
| | | Alaska | July 31, 1999. |
| | | Arkansas | Mar. 29, 1982. |
| | | Connecticut | Oct. 1, 1975. |
| | | Guam | Nov. 19, 1976. |
| | | Idaho | Mar. 29, 1982. |
| | | Kentucky | Apr. 18, 1973. |
| | | Maryland | Mar. 31, 1991. |
| | | Massachusetts .. | Jan. 12, 1976. |
| | | Michigan | Mar. 29, 1982. |
| | | Nevada | Jan. 31, 1975. |
| | | New Hampshire .. | Oct. 29, 1979. |
| | | New Jersey | July 1, 1975. |
| | | New York | July 16, 1975. |
| | | Northern Mariana Islands. | Oct. 29, 1979. |
| | | Oregon | Jan. 31, 1975. |
| | | Pennsylvania | May 2, 1974. |
| | | Puerto Rico | Nov. 19, 1976. |
| | | Rhode Island | Mar. 29, 1982. |
| | | Virgin Islands | Nov. 19, 1976. |
| | | Washington | Jan. 31, 1975. |

[35 FR 19667, Dec. 29, 1970]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 331.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

PART 332—SELECTED ESTABLISHMENTS; COOPERATIVE PROGRAM FOR INTERSTATE SHIPMENT OF CARCASSES, PARTS OF CARCASSES, MEAT, AND MEAT FOOD PRODUCTS

Sec.

332.1 Definitions.

332.2 Purpose.

332.3 Requirements for establishments; ineligible establishments.

332.4 State request for cooperative agreement.

332.5 Establishment selection; official number for selected establishments.

332.6 Commencement of a cooperative interstate shipment program; inspection by designated personnel and official mark.

332.7 Federal oversight of a cooperative interstate shipment program.

332.8 Quarterly reports.

332.9 Enforcement authority.

332.10 Deselection of ineligible establishments.

332.11 Transition to official establishment.

332.12 Transition grants.

332.13 Separation of operations.

332.14 Voluntary withdrawal.

AUTHORITY: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

SOURCE: 76 FR 24753, May 2, 2011, unless otherwise noted.

§ 332.1 Definitions.

Cooperative interstate shipment program. A cooperative meat inspection program described in § 321.3 of this subchapter.

Cooperative State meat inspection program. A cooperative State-Federal meat inspection program described in § 321.1 of this subchapter.

Designated personnel. State inspection personnel that have been trained in the enforcement of the Act and any additional State program requirements in order to provide inspection services to selected establishments.

Interstate commerce. “Interstate commerce” has the same meaning as “commerce” under § 301.2 of this subchapter.

Selected establishment. An establishment operating under a State cooperative meat inspection program that has been selected by the Administrator, in coordination with the State where the establishment is located, to participate

in a cooperative interstate shipment program.

§ 332.2 Purpose.

This part prescribes the conditions under which States that administer cooperative State meat inspection programs and establishments that operate under such programs may participate in a cooperative interstate shipment program.

§ 332.3 Requirements for establishments; ineligible establishments.

(a) An establishment that operates under a cooperative State meat inspection program may apply to participate in a cooperative interstate shipment program under this part if:

(1) The establishment employs on average no more than 25 employees based on the standards described in paragraph (b) of this section, or

(2) The establishment employed more than 25 employees but fewer than 35 employees as of June 18, 2008. If selected to participate in a cooperative interstate shipment program, an establishment under this paragraph must employ on average no more than 25 employees as of July 1, 2014, or it must transition to become an official establishment as provided in § 332.11 of this part.

(b) An establishment that has 25 or fewer employees based on the following standards is considered to have 25 or fewer employees on average for purposes of this part.

(1) All individuals, both supervisory and non-supervisory, employed by the establishment on a full-time, part-time, or temporary basis whose duties involve handling the meat or meat food products prepared by the establishment are counted when calculating the total number of employees.

(2) All individuals employed by the establishment from a temporary employee agency, professional employee organization, or leasing concern whose duties involve handling the meat or meat food products prepared by the establishment are counted when calculating the total number of employees.

(3) The average number of employees is calculated for each of the pay periods for the preceding 12 calendar months.